

STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

In the Matter of:

THE SCHOOL BOARD OF THE BARRINGTON
SCHOOL DISTRICT

Respondent

and

THE BARRINGTON TEACHERS ASSOCIATION,
AFFILIATED WITH NHEA/NEA

Charging Party

CASE NO. T-0298:3

DECISION NO. 780017

APPEARANCES

Representing the Respondent, The School Board, Barrington School District:

Bradley F. Kidder, Esq., Counsel
Gail Kinney, Barrington School Board
Leonard W. Clough, Barrington School Board
Barry L. Clough, Superintendent of Schools
Walter W. Lovell, Past Member of the School Board (term expired 3/21/78)

Representing the Charging Party, The Barrington Teachers Association:

David N. Smith, Uni Serv Director, NHEA-BTA
Dennis Ciniero, President, BTA

BACKGROUND

On September 30, 1977, the Barrington Teachers Association, Affiliated with NHEA/NEA filed a request for a representation election in accordance with RSA 273-A:10 for a proposed unit composed of twenty-three classroom teachers and one speech therapist. Request was accompanied by individual signed cards from over thirty percent of the employees who wished to be represented by the Barrington Teachers Association for the purpose of collective bargaining.

On October 5, 1977, Superintendent Barry L. Clough informed PELRB that the Barrington School Board disagreed with the composition of the bargaining unit in that it should include twenty-six classroom teachers, as opposed to twenty-three, and that the petition should list one Special Education teacher in addition to the twenty-six classroom teachers. Also the School Board registered its disagreement with the listing of the Speech Therapist as being a part time employee.

The Barrington Teachers Association, by its representative, David N. Smith, amended its original petition on October 25, 1977 to reflect the change of the proposed unit and included the twenty-six classroom teachers and the Special Education Teacher.

Agreement to the amended petition for certification was signed as approved by both parties, the Barrington Education Association by its representative, David N. Smith, and the Barrington School District by its representative, Superintendent Barry L. Clough on October 18, 1977.

On November 9, 1977, a representative from the Public Employee Labor Relations Board, Evelyn C. LeBrun, conducted an election in the Barrington School District which resulted in the certification of the Barrington Teachers Association as the exclusive representative for 26 full time classroom teachers and one (1) Special Education Teacher. Out of the 27 eligible voters, 23 ballots were cast, all in favor of the Barrington Teachers Association.

Dennis Ciniero, BTA President wrote to School Board Chairman, Walter Lovell on November 16, 1977 and requested a meeting for the purpose of negotiating their first agreement with the School District.

Complaint of unfair labor practice charges was filed with PELRB on January 23, 1978 by BTA representative, David N. Smith, against the Barrington School Board alleging failure to negotiate in good faith and, setting forth that on September 26, 1977, the BTA had notified the School Board of its desire to negotiate a contract in accordance with RSA 273-A:3.

Hearing on the unfair labor charges was held on March 22, 1978 in the Labor Board's office, 117 Manchester Street, Concord, New Hampshire. Written and oral evidence was presented by both parties, and the parties expressed a willingness to attempt negotiations on non-cost items such as grievance procedure and teacher evaluation, etc. Toward that end, PELRB recessed the hearing to allow the parties an opportunity to discuss and try to resolve their problems. The session however was unproductive and the PELRB hearing continued. The parties presented further testimony in support of their positions and both seemed to be reaching for a third party or PELRB decision.

FINDINGS OF FACTS AND RULING OF LAW

1. Notice of intent to bargain was filed by BTA on September 26, 1977, however this notice was filed prior to the filing of the request for a representative election with PELRB, September 30, 1977; election followed the October 18, 1977 agreement on the bargaining unit and held November 9, 1977, eighty-four (84) days prior to budget submission date which in accordance to RSA 273-A:1 III, is February 1 of each year.
2. As requested by BTA President, Dennis Ciniero, the School Board and the teachers held meetings on December 21, 1977 and January 3, 1978 where they mutually discussed and considered the budgetary matters and deadlines.
3. PELRB is prohibited under RSA 273-A:10, V from certifying a representative without having held an election and,
4. The obligation to bargain does not arise under RSA 273-A:3, until a unit and representative have been certified by the Board.

After careful review of the testimony and evidence on the unfair labor practice charges, the Public Employee Labor Relations Board rules, as follows:

BOARD ORDER AND DECISION

The Board finds the charges of unfair labor practice alleged by the Barrington Teachers Association against the School Board are without merit and, therefore are dismissed.

Further, the Board orders both parties to resume good faith negotiations on all matters exclusive of cost items.

A handwritten signature in cursive script, appearing to read "Edward J. Haseltine", is written over a horizontal line.

EDWARD J. HASELTINE, CHAIRMAN
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Signed this 9th day of May, 1978

Present and voting, Chairman Edward J. Haseltine and Members Edward L. Allman and Richard H. Cummings. Unanimous vote.

Also present, Board Clerk, Evelyn C. LeBrun